

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

JASON KLINTWORTH, et al.,

Plaintiff,

vs.

VALLEY FORGE INSURANCE  
COMPANY, et al.,

Defendant.

Case No. 20-CV-178-CVE-FHM

**OPINION AND ORDER**

The court has the following discovery-related motions that were pending before the state court at the time this case was removed to federal court on April 29, 2020: Defendant Valley Forge Insurance Company's (Valley Forge) Motion for Sanctions Against Plaintiff and Plaintiff's Counsel, [Dkt. 22] filed in state court August 2, 2019; Defendant Valley Forge's Second Motion for Sanctions, [Dkt. 29], filed in state court January 10, 2020; Defendant Valley Forge's Third Motion to Compel, [Dkt. 30], filed in state court January 10, 2020; Defendant Valley Forge's Third Motion for Sanctions, [Dkt. 37], filed in state court January 27, 2020. All of these motions are fully briefed and ripe for decision.

**Background**

Plaintiff's remaining claim against Valley Forge is a breach of the duty of good faith and fair dealing brought by Plaintiff Klintworth only. [Dkt. 78, pp. 1-2]. That claim is count one of the Third Amended Petition. [Dkt. 12-17; Dkt. 78, pp. 1-2]. On July 24, 2020, the Court's Partial Scheduling Order declared discovery closed as to this count.

**Defendant's Motions for Sanctions [Dkt. 22, 29, 37]**

Defendant's three motions for sanctions address alleged violations of state court discovery orders. While the alleged discovery violations and background information

outlined in the parties' briefing reflects poorly on the participation by Plaintiff's counsel throughout discovery, the court notes that the state court had ample time in which to assess sanctions against Plaintiff for violation of its orders if it so desired. Further, the matters Defendants have outlined along with the alleged prejudice do not merit a recommendation that the case be dismissed. Since discovery is closed as between the two parties involved in these motions, and since at this point in the litigation any deficiency in Plaintiff's production can be addressed through motions in limine to prevent Plaintiff from relying on witnesses and information not disclosed, the court finds no merit in addressing the motions for sanctions further.

The case will proceed based on the Federal Rules of Civil Procedure, the Local Rules, and the scheduling order. It is evident that the many motions for sanctions are the result of the lack of timely responsive communication from Plaintiff's counsel. Counsel are expected to conduct themselves civilly and professionally, including promptly responding to correspondence and phone calls.

Defendant Valley Forge Insurance Company's (Valley Forge) Motion for Sanctions Against Plaintiff and Plaintiff's Counsel, [Dkt. 22] filed in state court August 2, 2019; Defendant Valley Forge's Second Motion for Sanctions, [Dkt. 29], filed in state court January 10, 2020; and Defendant Valley Forge's Third Motion for Sanctions, [Dkt. 37], filed in state court January 27, 2020, are DENIED.

#### **Defendant's Third Motion to Compel [Dkt. 30]**

This motion was filed in state court on January 10, 2020. The motion relates that on December 2, 2019, Plaintiff filed a Final Witness and Exhibit List wherein seven additional expert witnesses were identified. Defendant seeks an order compelling Plaintiff

to supplement Interrogatory No. 16 and Request for Production No. 1 regarding eight witnesses, including seven newly-named witnesses.

As previously stated, the matter has been removed to federal court, the case schedule has been altered, including an August 19, 2020, deadline for the exchange of Plaintiff's expert identification and reports. [Dkt. 81]. Again, this case will proceed under the schedule established by this court and therefore, Defendant's Third Motion to Compel, [Dkt. 30], which relied on the state court schedule, is DENIED.

### **Conclusion**

Defendant Valley Forge Insurance Company's (Valley Forge) Motion for Sanctions Against Plaintiff and Plaintiff's Counsel, [Dkt. 22] filed in state court August 2, 2019; Defendant Valley Forge's Second Motion for Sanctions, [Dkt. 29], filed in state court January 10, 2020; Defendant Valley Forge's Third Motion to Compel, [Dkt. 30], filed in state court January 10, 2020; Defendant Valley Forge's Third Motion for Sanctions, [Dkt. 37], filed in state court January 27, 2020 are DENIED as set out herein.

SO ORDERED this 8th day of September, 2020.

  
FRANK H. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE